

EASTERN DISTRICT OF TEXAS

CIVIL ACTION NO. 1:09-CV-429

Defendants.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED.R.CIV.P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff asserts he does not have “three strikes” within the meaning of 28 U.S.C. § 1915(g) and should therefore not be barred from proceeding with this lawsuit on an *in forma pauperis* basis. However, the United States Court of Appeals for the Fifth Circuit has concluded plaintiff does have three strikes. *See Nickerson v. Price*, No. 09-40807 (5th Cir. Aug. 3, 2010). As a result, the court agrees that this case should be dismissed.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 24th day of May, 2012.

A handwritten signature in cursive script, reading "Marcia A. Crone".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE